

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

CIVIL ACTION NO. 17-11928-GAO

MR. NELSON ORLANDO RAMOS-OLIVA,
Petitioner,

v.

YOLANDA SMITH,
Respondent.

SERVICE ORDER

O'TOOLE, D.J.

Immigration detainee Nelson Orlando Ramos-Oliva, through counsel, has filed a petition for a writ of habeas corpus under 28 U.S.C. § 2241 in which he seeks immediate release. He also filed a motion for leave to proceed in forma pauperis and an emergency motion for the issuance of a writ of habeas corpus, an expedited hearing, and summary judgment. Ramos-Oliva is confined at the Suffolk County House of Correction. He names as respondents Suffolk County House of Correction Superintendent Yolanda Smith and Suffolk County Sheriff Steven Tompkins.

Accordingly, this Court hereby orders that:

1. The motion for leave to proceed in forma pauperis is GRANTED.
2. Yolanda Smith, Superintendent of the Suffolk County House of Correction, shall be the sole respondent in this action. See Rumsfeld v. Padilla, 542 U.S. 426, 439 (2004) (immediate custodian of petitioner is proper respondent in habeas action); Vasquez v. Reno, 233 F.3d 688, 696 (1st Cir. 2000) (same, as applied to immigration detainee); M.G.L. ch. 126, § 16 (sheriff has custody and control of the house of correction within the county, except in Suffolk County).
3. The Clerk of this Court shall serve a copy of the petition upon (i) Superintendent Smith; and (ii) the United States Attorney for the District of Massachusetts.

4. Respondent shall, no later than 5:00pm on Wednesday, October 18, 2017, show cause why the petition should not be granted.

5. The emergency motion is GRANTED in regard to Petitioner's request for an expedited hearing. The Court shall hold a hearing on Friday, October 20, at 10:00am.

6. The emergency motion is otherwise DENIED WITHOUT PREJUDICE.

7. In order to give the Court time to consider the matter, unless otherwise ordered by the Court, the petitioner shall not be moved outside the District of Massachusetts without providing the Court 48 hours' advance notice of the move and the reason therefor. Any such 48-hour notice period shall commence at the date and time such notice is filed and expire 48 hours later, except "[i]f the period would end on a Saturday, Sunday, or legal holiday, the period continues to run until the same time on the next day that is not a Saturday, Sunday, or legal holiday." Fed. R. Civ. P. 6(a)(2)(C).

SO ORDERED.

10/6/2017
DATE

/s/ George A. O'Toole, Jr.
GEORGE A. O'TOOLE, JR.
UNITED STATES DISTRICT JUDGE